

## REMARKS

Claims 1-14, 19, 21, 25-29, and 31 are pending in the instant application. All claims, except new claim 31 presently stand rejected. Claims 1, 8, and 19 are amended herein. Claims 30-34 are hereby cancelled without prejudice. Claim 31 is newly presented. Entry of this amendment and reconsideration of the pending claims are respectfully requested.

### *Specification*

The Examiner is thanked for withdrawal of the objection to the disclosure.

### *New Matter Objection*

Claims 30-34 were objected to under 35 U.S.C. §132 as introducing new matter into the disclosure. Applicants hereby cancel claims 30-34 without prejudice.

### *Claim Objection*

Claim 8 stands objected to for lack of antecedent basis for the phrase "the means for determining." Accordingly, claim 8 has been amended to provide proper antecedent basis.

### *Claim Rejections – 35 U.S.C. § 102(b)*

Claims 1-14, 19, 21, and 25-29 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Leak et al. (US 5,937,424).

A claim is anticipated only if each and every element of the claim is found in a single reference. M.P.E.P. § 2131 (citing *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628 (Fed. Cir. 1987)). "The identical invention must be shown in as complete detail as is contained in the claim." M.P.E.P. § 2131 (citing *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226 (Fed. Cir. 1989)).

Amended independent claim 1 recites, in pertinent part, "performing data operations from n data partitions ... through functions accessed **directly** from the code partitions at approximately the same time as the code operations are performed from the m code partitions. Applicants submit that Leak fails to disclose functions accessed

directly from the code partitions are used to perform data operations. In fact, Leak discloses,

The code of the flash EPROM is **shadowed, or copied, to the volatile memory** ... After the code is shadowed in the volatile memory, if the flash EPROM is performing a program operation and the processor generates a code fetch request, then the processor can satisfy the code fetch request by reading the requested code **from the volatile memory**.

*Leak*, col. 4, lines 7-17 (emphasis added). Thus, Leak discloses shadowing code from EPROM 104 (see FIG. 3) within volatile memory, not performing data operation through functions accessed **directly** from code partitions of a memory device also including the data partitions (note claim 1 recites that the data and code partitions are within the same memory device).

Independent claim 1 also recites, in pertinent part,

*suspending the data operations* of the *n* data partitions if at least *one of the functions accessed directly from the code partitions determines* that a preempting operation with priority is detected.

Applicants respectfully submit that Leak fails to disclose suspending data operations if a function accessed directly from a code partition determines that a preempting operation with priority is detected. The Examiner has cited no portion of Leak which describes a suspend or preempting function residing within flash EPROM 103 (FIG. 3) or flash EPROM 410 (FIG. 8A) themselves. In fact, referring to FIG. 6 of Leak a program suspend circuitry 195 is located within memory array control circuitry 140, which is clearly illustrated as external to the memory array (see arrow pointing to memory array). Accordingly, Leak teaches away from a suspend function being stored within a code partition of a memory device.

Consequently, Leak fails to disclose each and every element of claim 1, as required under M.P.E.P. § 2131. Independent claims 8, 11, 19, and 25 include similar claim elements to one or both of the above portions of independent claim 1. Accordingly, Applicants request that the instant §102(b) rejections of claims 1, 8, 11, 19, and 25 be withdrawn.

*Claim Rejections – 35 U.S.C. § 102(e)*

Claims 19 and 21 stand rejected under 35 U.S.C. § 102(e) as being anticipated by Brown et al. (US 6,201,739).

Independent claim 19 recites, in pertinent part,

a memory device having a code partition and a data partition, wherein **the code partition includes a function** that is performed on data stored in the data partition; and

a flag to indicate when a suspend operation has occurred, **wherein the function determines that the suspend operation has occurred if a requested second task of the data partition has priority over a first task of the data partition.**

Accordingly, the claim 19 recites the code partition of the memory device including a function for determining that a suspend operation has occurred if a requested second task of the data partition has priority over a first task of the data partition. Brown simply does not disclose this element.

In fact, FIG. 10 of Brown discloses system suspend circuitry 202 to generate “a suspend signal 206 to suspend pin 180 of the flash EPROM 110.” *Brown*, col. 9, lines 66-67. Therefore, Brown discloses circuitry **external** to flash EPROM 110 for determining whether to suspend an operation within flash EPROM 110. However, at no time does Brown even suggest, much less expressly or inherently disclose as required under § 102, storing a function within flash EPROM 110 for determining when a suspend operation has occurred if a requested second task has priority over a first task.

In the Response to Applicant’s Remarks section the Examiner states, “[t]he presence of a suspend pin in the Brown reference **does not mean there is not also needed a suspend or preempting operation.**” However, anticipation may only be found if each and every element of a claim is “expressly or inherently described, in a single prior art reference.” M.P.E.P. §2131. Merely stating that a suspend or preempting operation is not also needed is not sufficient to render Brown an anticipating prior art reference. The Examiner must find a portion of Brown which expressly or inherently describes that flash EPROM 110 includes the function that determines the suspend operation has occurred. In other words, the Examiner has cited no portion of Brown which describes a suspend or preempting function residing within flash EPROM

110 itself. In fact, Brown teaches away from the invention by indicating that system suspend circuitry 202 contains the suspend logic, not flash EPROM 110.

Consequently, Brown fails to disclose each and every element of claim 19, as required under M.P.E.P. § 2131. Accordingly, Applicants request that the instant §102 rejection of claim 19 be withdrawn.

*Claim Rejections – 35 U.S.C. § 103*

Claims 1-14 and 25-29 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Hazen et al. (US 6,088,264) in view of Brown.

“To establish prima facie obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. All words in a claim must be considered in judging the patentability of that claim against the prior art.” M.P.E.P. § 2143.03.

Independent claim 1 recites, in pertinent part,

***suspending the data operations of the n data partitions if at least one of the functions accessed directly from the code partitions determines that a preempting operation with priority is detected.***

Applicants respectfully submit that the combination of Hazen and Brown fails to disclose suspending data operations if a function **accessed directly from a code partition** determines that a preempting operation with priority is detected.

The Examiner acknowledges that “Hazen does not specifically teach the method step of suspending the data operations of the n data partitions if a preempting operation is detected.” *Office Action* mailed 03/03/2005, page 11. However, the Examiner relies on Brown as teaching this element. As discussed above, Applicants respectfully note that the Examiner has cited no portion of Brown which teaches or suggests a suspend or preempting function residing within flash EPROM 110 itself. In fact, Brown teaches away from the invention by indicating that external system suspend circuitry 202 contains the suspend logic, not flash EPROM 110.

“The examiner bears the initial burden of factually supporting any prima facie conclusion of obviousness. If the examiner does not produce a prima facie case, the applicant is under no obligation to submit evidence of nonobviousness.” M.P.E.P. §

2142. Due to the Examiners acknowledgment that Hazen does not teach suspending data operations and further that the Examiner has not cited any factual portion of Brown which teaches or suggests a suspend or preempting function included with flash EPROM 110 itself, the Examiner's burden has not been satisfied.

Consequently, the combination of Hazen and Brown fails to teach or suggest all elements of claim 1, as required under M.P.E.P. § 2143.03. Independent claims 8, 11, and 25 include similar nonobvious elements as independent claim 1. Accordingly, Applicants request that the instant §103(a) rejections of claims 1, 8, 11, and 25 be withdrawn.

Dependent claims 2-7, 9, 10, 12-14, 21, and 26-29 are patentable over the prior art of record for at least the same reasons as discussed above in connection with their respective independent claims, in addition to adding further limitations of their own. Accordingly, Applicants respectfully request that the instant § 102 and § 103 rejections for claims 2-7, 9, 10, 12-14, 21, and 26-29 be withdrawn.

### **CONCLUSION**

In view of the foregoing amendments and remarks, Applicants believe the applicable rejections have been overcome and all claims remaining in the application are presently in condition for allowance. Accordingly, favorable consideration and a Notice of Allowance are earnestly solicited. The Examiner is invited to telephone the undersigned representative at (206) 292-8600 if the Examiner believes that an interview might be useful for any reason.

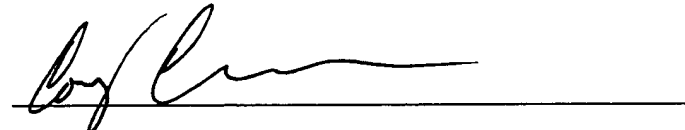
### CHARGE DEPOSIT ACCOUNT

It is not believed that extensions of time are required beyond those that may otherwise be provided for in documents accompanying this paper. However, if additional extensions of time are necessary to prevent abandonment of this application, then such extensions of time are hereby petitioned under 37 C.F.R. § 1.136(a). Any fees required therefore are hereby authorized to be charged to Deposit Account No. 02-2666. Please credit any overpayment to the same deposit account.

Respectfully submitted,

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Date: April 25, 2005



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